

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:18-cr-327-MOC-DCK-1**

**UNITED STATES OF AMERICA,**

**vs.**

**JERRY MIKEL HOLLOMAN,**

Defendant.

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**ORDER**

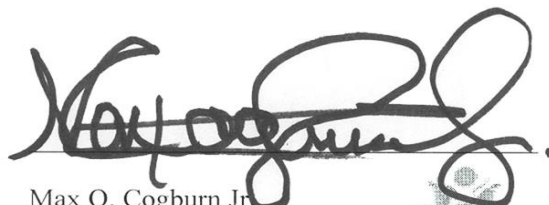
**THIS MATTER** is before the Court on defendant's pro se Motion for Certificate of Appealability, filed pursuant to Rule 22(b)(1) of the Federal Rules of Appellate Procedure (Doc. No. 53). Rule 22(b)(1) provides, in relevant part:

[I]n a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, the district clerk must send to the court of appeals the certificate (if any) and the statement described in Rule 11(a) of the Rules Governing Proceedings Under 28 U.S.C. § 2254 or § 2255 (if any) ... If the district judge has denied the certificate, the applicant may request a circuit judge to issue it.

FED. R. APP. P. 22(b)(1). Here, Defendant is not appealing the denial of a Section 2255 petition. Instead, he has appealed this Court's denial of his motion for denial of his motion for reconsideration on the Court's denial of his motion for compassionate release, filed under 18 U.S.C. § 3582(c)(1)(A). Rule 22(b)(1) simply does not apply. Furthermore, Defendant has already filed a Notice of Appeal of the denial of his motion for reconsideration on the Court's denial of his motion for compassionate release, and that appeal has been docketed with the Fourth Circuit Court of Appeals.

**THEREFORE**, Defendant's Motion pro se Motion for Certificate of Appealability, (Doc. No. 53), is **DENIED**.

Signed: August 26, 2021



Max O. Cogburn Jr.  
United States District Judge